

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JAMES HURT, JR.,

Plaintiff,

-against-

**DEFENDANTS' RULE 56.1  
STATEMENT IN SUPPORT  
OF THEIR MOTION FOR  
SUMMARY JUDGMENT**

THE CITY OF NEW YORK, SERGEANT MICHAEL  
CONNIZZO, and POLICE OFFICER JOHN DOE NO. 1,

15-CV-05873(ENV)(VMS)

Defendants.

Hon. P. Kevin Castel

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Defendants by their attorney Zachary Carter, Corporation Counsel of the City of New York, submit this statement pursuant to Rule 56.1 of the Local Civil Rules of the United States District Court for the Southern District of New York, setting forth the material facts to which they contend there is no genuine issue to be tried.

1. On July 2, 2014, at approximately 2:00 a.m., plaintiff James Hurt, Jr. was a passenger in a livery car in Bronx, New York. (Exh. A, Interview Details of Interview of James Hurt Jr. by CCRB)

2. Plaintiff was traveling from a barbecue in the vicinity of the 174<sup>th</sup> Street subway stop on the 2 and 5 train to his girlfriend's apartment in Stevenson Commons in Bronx, New York. (Exh. B, Deposition of James Hurt, Jr. *Id.*)

3. In the vicinity of 174<sup>th</sup> Street and Boone Avenue, the car was pulled over by an unmarked police car that was "white or cream or in that family." *Id.*

4. Two officers got out of the car. *Id.*

5. Plaintiff described one of the officers in the car as a white man wearing a gold shield and button-down shirt, who had a salt-and-pepper beard and was approximately 6'0" with a "husky" build. *Id.*

6. Plaintiff described the other officer as a white man who was approximately 5'10 and 190 pounds, and in shape. *Id.*

7. During the course of this stop, plaintiff was frisked, his duffel bag was searched, and he was subject to excessive force, including being punched in the face and having his left shoulder dislocated by one of the officers pulling back on his arm. *Id.*

8. Plaintiff then ran away from the officers, and the officers got into their car, made a U-turn, and began chasing after him. *Id.*

9. They struck him with their car a short distance away, but did not follow him after he jumped over a nearby fence, ran down a grassy embankment, and jumped over a second fence. *Id.*

10. Plaintiff then hid in an alley overnight, eventually using a stranger's phone to call his parents. *Id.*

11. Plaintiff was taken to St. John's Riverside Hospital, where he received medical treatment for his injuries. *Id.*

12. Plaintiff's father called the Internal Affairs Bureau of the NYPD to report this incident at approximately 8:45 a.m on July 2, 2014. (Exh. B, CCRB Referral Worksheet).

13. The case was forwarded to the Civilian Complaint Review Board, who conducted an investigation to attempt to identify the involved officers. *Id.*

14. The investigator, Glenn Brown, obtained vehicle assignments for unmarked cars in the following precincts: the 42nd Precinct, 43rd Precinct, PSA 7, PSA 8, Bronx Anti-Crime, Bronx Narcotics, and Bronx Gangs. (Exh. C, CCRB Investigative Recommendation).

15. Brown identified the cars he believed to be light-colored based on Fleet Services, and then reviewed the demographics of the officers assigned to those cars on that date. *Id.*

16. CCRB identified Sergeant Michael Connizzo and Police Officer Frank Siciliano of the Bronx Anti-Crime Unit as two white officers in plain clothes assigned to a silver car who were scheduled to work in the Bronx until 4:00 a.m. on July 2, 2014. *Id.*

17. Officer Siciliano and Sergeant Connizzo began their tour in Bronx Anti-Crime on July 1, 2014 at approximately 7:30 p.m. and received court notifications at the beginning of that tour. (Exh. D, Bronx Anti-Crime Roll Call; Exh. E, Siciliano Dep. p. 25:19-25).

18. Sergeant Connizzo and Officer Siciliano received notifications to appear at Bronx Criminal Court in Part AP3 at 9:00 a.m. on July 2, 2014 related to the case 2014BX026625. (Exh. F, Bronx Court Electronic Sign-In Record).

19. NYPD policy allows members of service who are notified for court the following day at the beginning of their tour with the Fourth Platoon to leave at 12:00 a.m. (Exh. G, Patrol Guide Section 211-05).

20. Officers who are entitled to leave at 12:00 a.m. under this policy are not entitled to receive overtime compensation if they work past 12:00 a.m. but not past the regular end of their tour. *Id.*

21. Sergeant Connizzo's memo book for July 1, 2014 reflect that he left the precinct at 12:05 a.m. (Exh. H, Connizzo memobook).

22. Officer Siciliano left the precinct at approximately 12:05 a.m. (Exh. I, Siciliano memobook).

23. Both Sergeant Connizzo and Officer Siciliano appeared for court the following morning at approximately 9:30 a.m. (Exh. F).

24. No license plate reader data was found regarding either Sergeant Connizzo's personal or duty vehicle on July 1, 2014 or July 2, 2014. (Exh. J, July 12, 2017 Affidavit of Michael Joy).

25. The vehicle that Sergeant Connizzo and Officer Siciliano were assigned to on the date of the incident did not have a mobile digital terminal on the date of the incident. (Exh. K, July 13, 2017 Affidavit of Pierre Barbee).

26. The vehicle that Sergeant Connizzo and Officer Siciliano were assigned to on the date of the incident was also not equipped with GPS equipment. (Exh. L, February 3, 2017 Declaration of Desmond Power).

27. The last phone call Sergeant Connizzo made or received on the night of July 1, 2014 occurred at approximately 12:20 a.m., and he did not make or receive any more calls until approximately 9:30 the following morning. (Exh. M, Cellular Records).

28. Plaintiff identified Sergeant Connizzo from a photograph provided by his attorney. (Exh. N, Excerpt of Plaintiff's Deposition)

29. That photograph depicts Sergeant Connizzo wearing dark sunglasses. (Exh. O, Photograph of Michael Connizzo).

30. CCRB determined that this investigation should be closed as "officers unidentified." (Exh. P, June 30, 2015 Letter to Samuel Cohen from CCRB).

Dated: New York, New York  
November 20, 2017

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